

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/K1/264

- Applicant** : Gorgeous Holdings (Hong Kong) Limited represented by Senior Consultant Limited
- Premises** : Unit 1, B1/F, Auto Plaza, 65 Mody Road, Tsim Sha Tsui, Kowloon
- Floor Area** : About 543m²
- Lease** : Kowloon Inland Lot (KIL) No. 10647
(a) a lease term of 75 years renewable for 75 years commencing from 12.2.1981
(b) restricted for non-industrial purposes (excluding residential)
- Plan** : Approved Tsim Sha Tsui Outline Zoning Plan (OZP) No. S/K1/28
- Zoning** : “Commercial (3)” (“C(3)”)
[subject to the following restrictions:
(a) maximum plot ratio (PR) of 12.0
(b) maximum building height (BH) of 95 metres above Principal Datum (mPD)]
- Application** : Proposed Commercial Bathhouse/Massage Establishment

1. The Proposal

- 1.1 The applicant seeks planning permission for a proposed commercial bathhouse/massage establishment at Unit 1 on B1/F of an existing commercial building (Auto Plaza) at 65 Mody Road, Tsim Sha Tsui (the Premises) (**Plan A-1**). According to the Notes of the OZP for the “C” zone, ‘Commercial Bathhouse/Massage Establishment’ is a Column 2 use, which requires planning permission from the Town Planning Board (the Board).
- 1.2 The Premises, with a total floor area of about 543m², is separated by a common access into two portions of 291m² and 252m² respectively, and located at the northern part of the commercial floor mainly occupied by the Premises and a karaoke lounge (**Drawing A-1** and **Plan A-4**). The western portion of the Premises comprises massage rooms, rest rooms and toilets whilst the eastern

portion comprises bathing facilities, steam rooms, rest zone, and ancillary office/staff room (**Drawing A-1**). The Premises is mainly accessible via a set of escalator/staircase directly connecting B1/F to the ground level fronting Mody Square (Entrance A), and four lifts serving the whole building (**Drawing A-1**, and **Plans A-2** and **A-3**). The operation hours of the proposed commercial bathhouse/massage establishment are from 11:00am to 5:00am daily, including Sunday and public holiday.

1.3 In support of the application, the applicant has submitted the following documents:

- (a) Application form received on 23.5.2022 (Appendix I)
- (b) Supplementary Planning Statement (Appendix Ia)
- (c) Further Information (FI) received on 7.7.2022, (Appendix Ib)
providing clarification on operational details with an
updated layout plan*

Remarks: @ accepted but not exempted from publication and recounting requirements

** accepted and exempted from publication and recounting requirements*

2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in **Appendices I** to **Ib**. They can be summarised as follows:

- (a) The proposed development is in line with planning intention of the “C(3)” zone and relevant Town Planning Board Guidelines, and compatible with other commercial uses within the same building.
- (b) The subject commercial building is in proximity to MTR East Tsim Sha Tsui Station and is well served by public transport. The proposed development will not generate any adverse environmental and traffic impact to the local area.
- (c) Suitable means of escape (MOE) and other fire safety measures will be provided to the satisfaction of relevant Government departments to ensure the safety of the public and staff.
- (d) There is an existing commercial bathhouse/massage establishment on B2/F (part) of the subject building previously approved by the Metro Planning Committee (the Committee) on 15.7.2016 under Application No. A/K1/254. There are other similar applications in the Tsim Sha Tsui area previously approved by the Committee.
- (e) The Premises is separated by a short common access only. Further, to avoid potential nuisances to other occupants in the subject building, customers who intended to use the services/facilities from the other portion of the Premises are required to be fully dressed and escorted by the staff at all time.

3. Compliance with the “Owner’s Consent/Notification” Requirements

The applicant is not a “current land owner” of the Premises but has complied with the requirements as set out in the Town Planning Board Guidelines on Satisfying the “Owner’s Consent/Notification” Requirements under Sections 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) by publishing notices in local newspapers and posting notice in a prominent position on or near the Premises. Detailed information would be deposited at the meeting for Members’ inspection.

4. Town Planning Board Guidelines

- 4.1 The Town Planning Board Guidelines for ‘Application for Commercial Bathhouse and Massage Establishment under Section 16 of the Town Planning Ordinance’ (TPB PG-No. 14B) (**Appendix II**) are relevant to the application. The main concern of the Board on commercial bathhouse and massage establishment is whether the application premises is suitable for these uses from the planning point of view. For example, the establishment may not be fully compatible with residential use and non-domestic uses such as children and youth centre, kindergarten, religious, educational or community institutions. Control of vice and obscenity should be left to the licensing and other relevant authorities.
- 4.2 The relevant assessment criteria are summarised as follows:
- (a) the proposed commercial bathhouse and massage establishment will normally not be permitted within a residential neighbourhood;
 - (b) the proposed establishment should be located within a commercial building or the non-domestic portion of a composite commercial/residential (C/R) building such as the commercial podium of a composite C/R building;
 - (c) the proposed establishment should not be incompatible with other uses within the same building. In assessing the compatibility with other uses within the same building, consideration will normally be given only to the uses permitted in the occupation permit (OP) issued by the Building Authority (BA);
 - (d) the views of local residents on the proposed commercial bathhouse and massage establishment will be taken into account;
 - (e) the Fire Services Department (FSD) and Buildings Department (BD) should be satisfied with the proposals to comply with the fire safety requirements for the proposed commercial bathhouse and massage establishment in respect of the provision of fire service installations and means of escape, etc.; and
 - (f) all other statutory or non-statutory requirements of relevant Government departments must be met.

5. Previous Application

There is no previous application in respect of the Premises.

6. Similar Applications

- 6.1 There are 28 similar applications for 'Commercial Bathhouse and/or Massage Establishment' use within "C" zone in Tsim Sha Tsui since 2000 (**Plan A-1** and **Appendix III**). Amongst them, 7 applications located within a composite C/R building and 20 applications located in commercial building (including application No. A/K1/254 located on B2/F (part) of the subject building) were approved with/without conditions by the Committee/Board, mainly on the considerations that the proposed developments were not incompatible with the existing uses within the building and the surroundings; separate entrances were provided; complied with TPB PG No.14B; and the relevant Government departments had no adverse comment.
- 6.2 Application No. A/K1/229 (application premises located in a commercial building) was rejected by the Board upon review on 23.12.2011, mainly on the reasons that the proposed development was incompatible with the education institutions within the same building; without providing an exclusive access separated from other users of the building; and would cause nuisance to other users of the same building.

7. The Premises and Its Surrounding Areas (Plans A-1 and A-2 and Sites Photos on Plans A-3 and A-4)

7.1 The Premises is:

- (a) situated on B1/F of an existing commercial building (Auto Plaza) completed in 1984;
- (b) currently vacant and under renovation; and
- (c) accessible mainly via a set of escalator/staircase directly connecting B1/F to the ground level fronting Mody Square (Entrance A), and four lifts serving the whole building (**Drawing A-1**, and **Plans A-2** and **A-3**).

7.2 The subject building is:

- (a) a 16-storey commercial cum multi-storey car parking building (including two basement levels). According to the OP dated 14.3.1984 issued by the BA (**Appendix IV**), the whole subject building was approved for shops, storage area, police reporting centre, car parks and offices uses; and
- (b) currently occupied by the following uses on various floors:

Floor	Main Uses
B2/F	Eating place and commercial bathhouse/massage establishment*
B1/F	Application Premises , karaoke lounge and vacant premises
G/F	Shops, police reporting centre, electricity substation and refuse collection point
1/F	Management office
2/F to 11/F	Car park
12/F	Motor vehicle showroom and shop
13/F	Eating place

* Application No. A/K1/254 approved by the Committee on 15.7.2016

7.3 The surrounding areas have the following characteristics:

- (a) to the east and south are predominantly commercial/hotel developments (i.e. Peninsula Centre, Houston Centre, Regal Hotel, Royal Garden Hotel, and Mirror Tower);
- (b) surrounded by the Urban Council Centenary Garden to the north, west and northeast. To the further west, northwest and southwest across Chatham Road South are predominantly medium/high-rise commercial developments; and
- (c) well served by various modes of public transport including buses, public light buses and taxis. The nearest MTR East Tsim Sha Tsui Station entrance is located about 120m from the subject building (**Plan A-1**).

8. Planning Intention

The “C” zone is intended primarily for commercial developments, which may include shop, services, place of entertainment and eating place, functioning mainly as local shopping centres serving the immediate neighbourhood.

9. Comments from Relevant Government Departments

9.1 The following Government departments have been consulted and their views on the application are summarised as follows:

Land Administration

9.1.1 Comments of the District Lands Officer/Kowloon West, Lands Department (DLO/KW, LandsD):

- (a) no objection to the application; and
- (b) the Premises falls within KIL No. 10647 (the Lot) which is held under Conditions of Sale No. 11479 as varied by a Modification

Letter dated 13.10.1982 for a term of 75 years renewable for 75 years commencing from 12.2.1981. The Lot is restricted for non-industrial purposes (excluding residential purpose).

Building Matters

9.1.2 Comments of the Chief Building Surveyor/Kowloon (CBS/K), BD:

- (a) no objection to the application;
- (b) all building works/change in use should be in compliance with the Building Ordinance (BO);
- (c) the applicant should be advised to appoint an Authorized Person (AP) to assess the feasibility of the proposed alterations and additions works/change of use and ensure that the proposed alterations and additions works/change of use are implemented in compliance with the BO including, inter alia, structural safety, provisions of adequate MOE, fire resisting construction and access and facilities for persons with a disability, etc;
- (d) before any new building works are to be carried out on the Premises, the prior approval and consent of BD should be obtained, otherwise they are Unauthorised Building Works (UBW). An AP should be appointed as the co-ordinator for the proposed building works in accordance with the BO;
- (e) for UBW erected on private land/buildings, enforcement action may be taken by the BD to effect their removal in accordance with BD's enforcement policy against UBW as and when necessary. The granting of any planning approval should not be construed as an acceptance of any existing building works or UBW on the Premises under the BO;
- (f) the applicant's attention is drawn to PNAP APP-47 that the BA has no powers to give retrospective approval or consent for any UBW;
- (g) detailed comments under the BO can only be formulated at the building plan submission stage; and
- (h) if the proposed use under application is subject to the issue of a licence, the applicant should be reminded that any existing structures on the Premises intended to be used for such purposes are required to comply with the building safety and other relevant requirements as may be imposed by the licensing authority.

Traffic

9.1.3 Comments of the Commissioner for Transport (C for T):

no comment on the application from traffic engineering perspective since the proposed change of use within existing building or part thereof is not traffic-related.

Fire Safety

9.1.4 Comments of the Director of Fire Services (D of FS):

- (a) no objection in principle to the application subject to fire service installations and water supplies for firefighting being provided to his satisfaction;
- (b) detailed Fire Services requirements will be formulated upon receipt of formal submission of general building plans or referral from licensing authority; and
- (c) the applicant is advised to observe the licensing requirements as stipulated in the “Fire Safety Requirements for Massage Establishment”.

Licensing

9.1.5 Comments of the Commissioner of Police (C of P):

- (a) no objection to the application;
- (b) if a planning permission from the Board is considered necessary for the proposed location, the applicant is advised to first apply for the same before submitting an application to the Police Licensing Office for a Massage Establishments Licence;
- (c) no application for massage establishments licence was received under the captioned address at this moment; and
- (d) any person who wishes to conduct massage business shall obtain a Massage Establishments Licence from the C of P according to Section 6 of Massage Establishments Ordinance, Cap. 266, Laws of Hong Kong. The applicant may also refer to Section 3 of Cap. 266 about the exemption.

9.1.6 Comments of the Director of Food and Environmental Hygiene (DFEH):

- (a) no comment on the application; and
- (b) under the Commercial Bathhouses Regulation (Cap. 132I), “bathhouse” means any premises for the use, on payment of a fee, of persons requiring a bath. Sauna is regarded as a form of bath. All premises which allow customers to take a bath, including using the sauna services provided, on a payment of a fee, are required to obtain a commercial bathhouse licence from the Food and Environmental

Hygiene Department, whether shower facilities are available or not.

9.2 The following Government departments have no objection to/comment on the application:

- (a) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (b) Chief Engineer/Mainland South, Drainage Services Department (CE/MS, DSD);
- (c) Director of Environmental Protection (DEP); and
- (d) District Officer (Yau Tsim Mong), Home Affairs Department (DO(YTM), HAD).

10. Public Comment Received During Statutory Publication Period

During the statutory public inspection period, one comment from an individual was received (**Appendix V**). The commenter objected to the application because of the concerns on traffic congestion of Mody Road, the possible nuisance and vice/obscenity problems arising from the proposed use.

11. Planning Considerations and Assessments

11.1 The applicant seeks planning permission for proposed commercial bathhouse/massage establishment at the Premises within an existing commercial building zoned “C(3)” zone on the OZP (**Plan A-1**). According to TPB PG-No. 14B for ‘Application for Commercial Bathhouse and Massage Establishment under Section 16 of the Town Planning Ordinance’, the main concerns of the Board on commercial bathhouse and massage establishment is whether the Premises is suitable for these uses from the planning point of view.

11.2 The Premises is located within an existing commercial building. The proposed use is considered not incompatible with the existing non-domestic uses on the same floor (i.e. karaoke lounge) and within the same building (e.g. eating places, shops, commercial bathhouse/massage establishment (on B2/F) and motor vehicle showroom). Although the Premises is separated by a short common access located in the northern corner of the commercial floor, that access is not the only way and not commonly used for access to other premises on the same floor. In addition, to avoid potential nuisances to other users in the subject building, the applicant will also require their staff to escort customers to the other portion of the Premises. Both D of FS and CBS/K, BD have no objection to the application. An approval condition in respect of the fire service installations under paragraph 12.2 (a) below is recommended at the request of D of FS. In addition, the proposed commercial bathhouse/massage establishment will be subject to relevant licensing requirements of DFEH and C of P. Other Government departments consulted including DLO/KW, LandsD, DEP, DO(YTM), HAD and C of P have no objection to or no adverse comment on the application. In view of the above, the proposed development is considered to be generally in line with the planning criteria as laid down in TPB PG-No. 14B under paragraph 4 above, including the land use compatibility and fire safety aspects.

- 11.3 Amongst the approved similar applications, a total of 20 applications for ‘Commercial Bathhouse/Massage Establishment’ are located within commercial buildings in Tsim Sha Tsui (including application No. A/K1/254 located on B2/F (part) of the subject building), which were approved with/without conditions as mentioned in paragraph 6.1 above. Approval of the subject application is consistent with the previous decisions of the Committee on the similar applications.
- 11.4 Regarding the public comment concerning the traffic impact, possible nuisance and vice/obscenity problems caused by the proposed massage establishment, the planning assessments above and the departmental comments in paragraph 9 above are relevant.

12. Planning Department’s Views

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the public comment mentioned in paragraph 10, the Planning Department has no objection to the application.
- 12.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid until 15.7.2026, and after the said date, the permission shall cease to have effect unless before the said date, the development permitted is commenced or the permission is renewed. The following conditions of approval and advisory clauses are suggested for Members’ reference:

Approval Conditions

- (a) the submission and implementation of fire service installations and water supplies for firefighting before operation of the proposed use to the satisfaction of the Director of Fire Services or of the Town Planning Board; and
- (b) if the above planning condition (a) is not complied with before operation of the proposed use, the approval hereby given shall cease to have effect and shall on the same date be revoked without further notice.

Advisory Clauses

The recommended advisory clauses are attached at **Appendix VI**.

- 12.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Members’ reference:

the applicant fails to demonstrate that the proposed Premises in two separate portions would not cause possible nuisances to other users on the same building.

13. Decision Sought

- 13.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 13.2 Should the Committee decide to approve the application, Members are invited to consider the approval condition(s) and advisory clause(s), if any, to be attached to the permission.
- 13.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.

14. Attachments

Appendix I	Application form received on 23.5.2022
Appendix Ia	Supplementary Planning Statement
Appendix Ib	Further Information received on 7.7.2022
Appendix II	Town Planning Board Guidelines No. 14B
Appendix III	Similar Applications
Appendix IV	Occupation Permit
Appendix V	Public Comment
Appendix VI	Recommended Advisory Clauses
Drawing A-1	Layout Plan
Drawing A-2	Floor Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plans A-3 and A-4	Site Photos

**PLANNING DEPARTMENT
JULY 2022**